

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LEINANI DESLANDES, on behalf of herself )  
and all others similarly situated, )

Plaintiff, )

v. )

McDONALD’S USA, LLC, a Delaware limited )  
liability company, McDONALD’S )  
CORPORATION, a Delaware corporation; and )  
DOES 1 through 10, inclusive, )

Defendants. )

\*\*\*\*\* )

STEPHANIE TURNER, on behalf of herself )  
and all others similarly situated, )

Plaintiff, )

v. )

McDONALD’S USA, LLC, a Delaware limited )  
liability company, and McDONALD’S )  
CORPORATION, a Delaware corporation, )

Defendants. )

Case No. 17-cv-04857

Judge Jorge L. Alonso  
Magistrate Judge M. David Weisman

Case No. 19-cv-05524

Judge Jorge L. Alonso  
Magistrate Judge M. David Weisman

**DEFENDANTS’ MOTION TO EXCLUDE THE REPORT AND TESTIMONY OF  
PETER CAPPELLI, D. PHIL.**

McDonald’s USA, LLC, and McDonald’s Corporation (“McDonald’s), by its undersigned counsel, hereby moves this Court pursuant to Federal Rules of Evidence 702 and 703 for an order excluding the report and testimony of Peter Cappelli, D. Phil. McDonald’s previously moved to exclude the report and testimony of Peter Cappelli, D. Phil., Dkts. 300 (sealed), 300-1 (sealed); Dkts. 304, 306 (public), which this Court denied without prejudice as moot in light of its Order Denying Plaintiffs’ Motion for Class Certification. Dkt. 372 at 27. Plaintiffs now rely on Prof. Cappelli’s report and testimony in their Combined Opposition and Cross-Motion to Defendants’

Motion for Summary Judgment (“Opposition”). Dkt. 399-1 at 17–18 (citing Pl. SMF ¶¶ 55-67), 19 (citing SMF ¶¶ 55-67), 20 (citing SMF ¶¶ 55-56).

When ruling on summary judgment, courts only consider admissible evidence. *Lewis v. CITGO Petroleum Corp.*, 561 F.3d 698, 704 (7th Cir. 2009). Evidence that does not pass muster under *Daubert*, 509 U.S. 579 (1993) is inadmissible. *Lewis*, 561 F.3d at 705. Prof. Cappelli’s report and testimony fail to meet this admissibility requirement. McDonald’s therefore renews its request to exclude Prof. Cappelli’s report and testimony in its entirety under Federal Rules of Evidence 702 and 703. *See Daubert v. Merrell Dow Pharms.*, 509 U.S. 579 (1993).

Plaintiffs’ Opposition relies on Prof. Cappelli’s opinions to support a market definition limited to workers with McDonald’s-specific training, but Prof. Cappelli failed to engage in any actual market definition analysis, instead relying on his “imagination,” “sense,” and purported “knowledge of how employees behave and have behaved effectively since the period of industrial revolution.” Dkt. 300-1 at 1 (collecting citations); *see also id.* at 4–6. Likewise, he simply assumed that *all* McDonald’s training is specific to McDonald’s and not transferrable to other types of jobs, and performed no rigorous study of the question. *Id.* at 6–9. This is not reliable expert work based in a sound and testable methodology.

These, and the other bases for McDonald’s motion, are more fully set forth in McDonald’s prior Memorandum in Support of Defendants’ Motion to Exclude the Opinions and Testimony of Peter Cappelli, D. Phil. *See* Dkts. 300-1 (sealed), 306 (public). To avoid unnecessary duplication of litigation or demands on the Court’s time, McDonald’s incorporates those arguments in full here.

Wherefore, McDonald’s respectfully moves an order excluding the report and testimony of Peter Cappelli, D. Phil. and for such further relief that the Court deems necessary and just.

Dated: December 7, 2021

Respectfully submitted,

**McDONALD’S USA, LLC and  
McDONALD’S CORPORATION**

By: /s/ Rachel S. Brass  
Rachel S. Brass

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**CERTIFICATE OF SERVICE**

I, Rachel S. Brass, an attorney, hereby certify that the foregoing document was electronically filed on December 7, 2021 and will be served electronically via the Court's ECF Notice system upon the registered parties of record.

/s/ Rachel S. Brass

Rachel S. Brass